GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Industries & Commerce Department – Mines & Geology – Central Bureau of Investigation – Anti Corruption Branch – Allegation of Corruption in connection with wrongful loss to AP State Wakf Board on account of lease rentals but also facilitated unauthorized excavation of minor minerals in violation of the terms and conditions of the permit – Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam – Draft Article of Charges – Departmental Proceedings under Rule-20 of Andhra Pradesh Civil Services (Classification, Control and Appeal)Rules, 1991 – Article of charges –Issued.

INDUSTRIES & COMMERCE (VIG) DEPARTMENT

G.O.RT.No. 228 Dated: 23-11-2020.

Read the following:

1. From DMG Letter. No.3679627/CBI-VSP/2020; Dt:24.09.2020 along withNo.DPVIS2020/2210/C1/RCs.09714(A)/2016/CBI/VSP. Dt:20.07.2020 of CBI.
2. G.O Rt No.227, Ind & Com (Vig) Dept., dated.23-11-2020.

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ORDER:

In continuation of the orders issued under Rule-24 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules 1991 in the reference 2nd read above, it is proposed to hold an inquiry against Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam in accordance with the procedure laid down in Rule-20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules,1991.

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charges and statement of imputations in Annexure I&II. A list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be sustained are also enclosed in Annexures III & IV.

3. Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam is directed to submit his written statement of defense (WSD) within 10 days from the date of receipt of this order and also to state whether he desires to be heard in person.

4. Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam is informed that, an inquiry will be held only in respect of those article of charges as are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam is further informed that if he does not submit his written statement of defense (WSD) on or before the date specified in para-3 above, further action will be taken based on the material available.

6. Attention of Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam is invited to Rule-24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings it will be presumed that Sri Gundu Sivaji, the then Assistant Geologist, Visakhapatnam is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-24 of the Andhra Pradesh Civil Services (Conduct) Rules,1964.

(P.T.O)

7. The receipt of the G.O. may be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri. Gundu Sivaji, the then Assistant Geologist, Visakhapatnam through Director of Mines & Geology, Ibrahimpatnam (With request to serve & return served copy to Government)
The Director of Mines & Geology, Ibrahimpatnam,AP,Vijayawada
SF/SC

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE – I

DRAFT ARTICLE OF CHARGES FRAMED AGAINST SHRI GUNDU SIVAJI S/O SURYANARAYANA THE THEN ASSISTANT GEOLOGIST, O/O THE ASSISTANT DIRECTOR, DEPARTMENT OF MINES AND GEOLOGY, GOVT OF ANDHRA PRADESH.

Shri Gundu Sivaji worked as the Assistant Geologist, O/o the Assistant Director, Department of Mines and Geology, Government of Andhra Pradesh, Visakhapatnam during the period between December, 2009 and June, 2013.

While working as Assistant Geologist, he was responsible for field inspections, application processing, issue of permits etc., in the O/o Assistant Director, Department of Mines and Geology. Visakhapatnam.

Shri Gundu Sivaji issued the permits to Shri K.Srinivasa Raju on 10-11-2011 for transporting 22.400 CuM; on 18-02-2012 for 23,100 CuM; on 25-04-2012 for 22,400 CuM of Earth from Sy.No.493, Devada village and putup the notes for approval for issue of permits by Shri Ch.Suryachandra Rao, the then Assistant Director, Department of Mines &Geology, Visakhapatnam on 12-12-2011 for 13,300 CuM and on 19-05-2012 for 1,13.400 CuM of earth from the said survey number knowing very well that Shri K.Srinivasa Raju, the licencee, had no valid lease permission from AP State Wakf Board and unauthorized excavation was being undertaken by Shri K.Srinivasa Raju and his principle contractor M/s Gangotri Enterprises Ltd., Lucknow, in the said survey number. Thus Shri Gundu Sivaji along not only caused wrongful loss to AP State Wakf Board on account of lease rentals but also facilitated unauthorized excavation of minor minerals in violation of the terms and conditions of the permit.

Thus, Shri Gundu Sivaji exhibited lack of integrity and devotion to duty, thereby acted in a manner unbecoming of a Public Servant in violation of Rule 3(5) of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

ANNEXURE – II

STATEMENT OF IMPUTATION AGAINST SHRI GUNDU SIVAJI, S/0 SURYANARAYANA, THE THEN ASSISTANT GEOLOGIST, O/O THE ASSISTANT DIRECTOR, DEPARTMENT OF MINES AND GEOLOGY, GOVT OF ANDHRA PRADESH.

Shri Gundu Sivaji worked as the Assistant Geologist, O/o the Assistant Director Department of Mines and Geology. Government of Andhra Pradesh, Visakhapatnam during the period between December, 2009 and June, 2013.

While working as Assistant Geologist, he was responsible for field inspections, application processing, issue of permits etc., in the O/o Assistant Director, Department of Mines and Geology, Visakhapatnam.

On 12-11-2008, Shri K.Srinivasa Raju applied for quarry lease for a period for 02 years of the area at Survey No. 493, Devada Village, Pedagantyada Mandal having a total extent of 128.35 acres for extraction of earth and gravel. In the purpose column Of the application it is mentioned that the same is going to be used for making ash pond or NTPC Simhadri, Phase-ll. Subsequently, Shri G.Sivaji, the then Asst. Geologist O/o the Assistant Director, Mines & Geology, Visakhapatnam submitted an Inspection Report and recommended a quarry lease for ordinary and earth and gravel in 75 acres in Survey No. 493 of Devada (V), Pedagantyada(M) in favour of the applicant on receipt of No Objection from the Tahsildar, Pedagantyada, the Deputy Director of Mines issued grant orders in favour of Shri K.Srinivasa Raju.

Meanwhile on 21-01-2009, Shri M.V.Ramana Rao, then Hon'ble Minister for Infrastructure & Investments, Ports, Airports and Natural Gas, Government of Andhra Pradesh forwarded representation of Shri K.Srinivasa Raju dt.19-01-2009 to AP WAKF Board for issue of permission of quarry lease to an extent of 128.35 acres for a period of one year in Sy.No.493, Pedagantyada Mandal for NTPC Simhadri Ash Pond work Phase-ll. However. Inspection Report dt.09-02-2009 of Shri Syed Adam Shafi Inspector-Auditor Wakf, Visakhapatnam revealed that only 75 acres of vacant land containing sand and red soil is available for mining purpose. Subsequently, on 18-032009 the Chairman of Wakf Board negotiated with one Shri M.Srinivas Rao of Gangotri Project and fixed the lease rent at Rs. 10,000/- per acre per annum, non-refundable deposit of Rs.50.000/- and Bank Guarantee of Rs.5 lakhs, subject to other conditions acceptable. During the negotiations Shri M.Srinivasa Rao also assured that they would not cause damage to the Wakf property and will not go into depth but cut the surface only upto land level. Accordingly, vide proceedings dt.19-03-2009 addressed to Shri K.Srinivasa Raju, Visakhapatnam, approval was conveyed for 75 acres only for a period of one year from the date of order. In response to the proceedings a total amount of Rs.13 lakhs was deposited with AP Wakf Board in the form of cheque/DD/FDR on 13-04-2009. Thereupon, Shri K.Srinivasa Raju was directed to execute a Lease Deed. However, the same was not executed. As per the draft lease deed, the lessee shall not cut land a single centimeter below the land surface and he shall be responsible for any violation of the conditions.

On 25-07-2009, Shri K.Srinivasa Raju gave a representation to AP Wakf Board mentioning that land in Sy.No.493, Devada village is covered by water and below sea level. As quarrying earth is not possible, he wanted change of lease to Sy.No.493, 495 and 496 (part). In this regard, Shri Syed Adam Shafi, Inspector - Auditor Wakfs, Vishakhapatnam conducted verification and submitted a report on 05-09-2009 stating that in Sy.No.494, 495 and 496 more earth soil/deposits are available in comparison to 493 and recommended. He had also mentioned that the applicant was lifting earth in Sy No.493 for the past three months.

While the decision was getting prolonged, on 25-01-2010 Shri K. Srinivasa Raju gave a representation claiming that he could not execute agreement as his request for change was pending. He requested to revise the proceedings extending for one more year as the lease was expiring on 18-03-2010. However, vide proceedings dt.18-03.2011, AP Wakf Board gave extended the lease period only for a period of four months i.e. upto 17-07-2011 in Sy.No.493, Devada village and directed Shri K. Srinivasa Raju to execute the lease deed.

Subsequently, on 15-11-2011,Shri K.Srinivasa Raju requested for extension of lease by 1 or two years for 30 acres instead of 75 acres. However, the same was not considered.

Meanwhile, on 13-04-2011, Deputy Director of Mines and Geology (l/c), Visakhapatnam gave quarry Lease License to Shri K.Srinivasa Raju. In Appendix to these proceedings vide clause 3, it was specifically mentioned that the Lessee should not commence the quarrying operations unless the lease deed is executed. Further as per clause 12 of the Appendix, if in the course of quarrying any mineral not covered in the lease is discovered, the Lessee should report such discovery to the Assistant Director, Mines and Geology and obtain permission in case he desires to extract the mineral.

Shri K.Srinivasa Raju also submitted an Affidavit on 04-06-2011 that there is an average thickness of one meter of sand available in the quarry lease granted area, below that required earth is available which can be used for formation of ash pond and undertook that he would excavate the earth by removing the sand, refill the same after excavation of earth/gravel), apart from confirming on 27-05-2011 that he had remitted necessary amounts. Subsequently, Assistant Director of Mines and Geology, Visakhapatnam issued proceedings conveying the sanction of permission for quarrying gravel for a period of one year w.e.f. 02-06-2011 to 01-06-2012 from Sy No.493, Devada village, Pedagantyada Mandal. Finally a lease agreement was executed between the lessor i.e Shri Ch. Surya Chandra Rao, the then Assistant Director, Mines and Geology Department, Govt, of AP and lessee i.e. Sri K.S.V.Raju on 02-06-2011. As per the lease agreement the lease holder was permitted for quarrying gravel and the period of lease was 02.06.2011 to 01.06.2012.

Knowing that he was not having valid extension of lease for Wakf Board beyond 17-07-2011, Shri K.Srinivasa Raju applied for issue of Permits for Dispatch of 22,400 CuM of earth on 10-11-2011 ;13.300 CuM on 12-12-2011 ;23,100 CuM on 17-02-2012,22,400 CuM on 25.04.2012 and 1,13,400 CuM on 19-05-2012. Further, knowing that Shri K.Srinivasa Raju was not having extension of lease from AP Wakf Board beyond 17-07-2011. on payment of seigniorage fee, Shri Ch.Surya Chandra Rao, the then Assistant Director and Shri G.Sivaji, then Assistant Geologist, Mines and Geology Department, Visakhapatnam issued Permits on 10-11-2011; 12-12-2011; 18-02-2012; 26-04-2012 and 19-05-2012. In fact Shri Ch.Surya Chandra Rao, while issuing the proceedings dt.02-06-2011 granting quarrying operations for one year i.e. upto 01-06- 2012 he clearly mentioned that it was subject to the condition of extension of permission to quarry issued by CEO, AP State Wakf board, Hyderabad. Infact, on 04- 04-2012 Shri Gundu Sivaji prepared a letter and obtained the signature of Shii Ch.Surya Chandra Rao wherein the Assistant Director (Vigilance), Mines and Geology, Visakhapatnam requested to take necessary action to check unauthorized quarrying in Sy.No.493, Devada Village. Knowing these facts, Shri Gundu Sivaji not only issued permits himself on 10-11-2011 for 22,400 CuM, 23,100 Cum on 18-022012; 22,400 CuM on 26-04-2012, but also putup the requests for issue permits for approval by Shri Ch.Suryachandra Rao, the then Assistant Director for a quantity of 13,300 CuM on 12-12-2011 and 1,13,400 CuM on 19-05-2012 suppressing the facts.

The above facts clearly establish that Shri Ch.Surya Chandra Rao and Shri G.Sivaji deliberately favoured Shri K.Srinivasa Raju in excavating the minor mineral (earth) without valid lease of the land in Sy.No.493, Devada Village and also excavating sand without valid permit/payment of royalty and transporting the same for usage in construction of Starter Dyke and 2nd raising of Ash Dyke - Lagoon - I at NTPC Simhadri which were undertaken by M/s Gangotri Enterprises Ltd., and its subcontractor M/s Gurukrupa Constructions represented by its Managing Partner Shri K.Srinivasa Raju, the lease holder in violations of the provisions of Mines and Minerals (Development and Regulation) Act, 1957 vis-a-vis the terms and conditions stipulated in the proceedings of Deputy Director, Mines and Geology, Govt. of AP and the Lease Agreement.

Thus Shri Gundu Sivaji not only caused wrongful loss to AP State Wakf Board on account of lease rentals but also facilitated unauthorized excavation of minor minerals in violation of the terms and conditions of the permit.

Thus, Shri Gundu Sivaji exhibited lack of integrity and devotion to duty, thereby acted in a manner unbecoming of a Public Servant in violation of Rule 3(5) of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

ANNEXURE – III

LIST OF WITNESSES IN SUPPORT OF ARTICLE OF CHARGES AND STATEMENT OF IMPUTATIONS AGAINST SHRI GUNDU SIVAJI.

1. Shri Kandukuri Venkateswara Rao S/o late Kandukuri Potharina Setty, DGM - Field Quality Assurance, NTPC Ltd., Pragathi Bhavan, Kaniplai PO, Koiba District.

2. Shri Thayi Sreedhar, S/o late MallaiahSetty, Partner, M/s Malleswara Infra Projects, Office - cum - Residence: Flat No.401, Viridis Enclave, Panchavati Colony, Manikonda, Hyderabad - 500 089.

3. Shri Behera Ravi Kumar, S/o late Vallabha Rao, Royalty Inspector, O/o Assistant Director. Mines and Geology, Govt.of AP, Sampurna Nivas, D No 237-5, Second Floor, MIG - 17, Sector - 10, MVP Colony, Visakhapatnam 17, R/o FlatNo.401, KVS Residency, III Floor. Near Chinna Polammaba Temple, Sivaji Palem, Visakhapatnam.

4. Sri Abdul Khuddus, S/o late Sattar, Assistant Secretary & In-charge Accounts Officer, Andhra Pradesh Wakf Board, 4th Floor, Imdad Ghar, Opp. Kaleswara Rao Market, Near HPO, Vijayawada - 530 001, R/o D.No.14-4-233, Opp. Markaz Masjid. Kothurivari Thota, 3rd Lane, Guntur - 522 001.

5. Shri Bandaru Srinivasa Rao, S/o Shri Thaviti Naidu Technical Assistant, O/o AD, ines and Geology (Vigilance) , DNo.2-36-7, Pradarshini, Sector - 10 MVP Colony, Visakhapatnam - 530 017 R/o 53-26-8/10, C/o B.Arundhati, KRM Colony, Ganesh Nagar, Maddilapalem, Visakhapatnam, Permanent address, MahantiVeedhi, Narayana Puram village and PO, Balijapet Mandal, Vizianagaram District.

6. Shri Lodagala Chetan Kumar, S/o late Satyanarayana, Deputy Thasildar, Gajuwaka, Visakhapatnam R/o D.No 1-18, MusalaiahPalem, Near Senora Beach Resorts, Sagar Nagar PO, Visakhapatnam - 530 045.

7. Shri S.N.Subramaniam, Addl.Supdt.of Police, CBI, Visakhapatnam

8. Shri Ch.V.NarendraDeve, Dy.Supdt.of Police, CBI, Visakhapatnam.

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT

ANNEXURE – IV

LIST OF DOCUMENTS IN SUPPORT OF ARTICLE OF CHARGES AND STATEMENT OF IMPUTATIONS AGAINST SHRI GUNDU SIVAJI.

1. FIR in crime No.RC 09(A)/2016-CBI/VSP, dt.10-06-016.

2. FIR in crime No.RC.14(A)/2016-CBI/VSP, dt. 14-09-2016.

3. Letter of Award No CS3530-331-9-C-LOA5153, dt.05-09-2008 of NTPC, Corporate Office issued in favour of M/s Gangotri Enterprises Ltd., for a value of Rs.432,545,536/- for construction of Starter Dyke - Stage - II.

4. Service Purchase Order No.500005551-025-1035, dt.05-10-2.010 of NTPC Simhadri issued in favour of M/s Gangotri Enterprises Ltd., for a value of Rs 16,36,83,565/- for construction of Second Raising of Ash Dyke - Lagoon - I-Stage-I. (M No. 16/219/3)

5. Lease file relating to Survey No.493 of Devada village of the O/o Assistant Director Mines and Geology Department, Visakhapatnam

6. File No.430/VSP/Rent/2009/SV on the subject Mining and Queries VSP Dist - Pedagantyada (M) - Devada (V) (M No. 18/568/1)

7. File No. RC 121 A/RC.04/2012 A S.No 493 424 illegal quarying at Devada village, Pedagantyada Mandal (M.No.18/512/1)

8. File No.1067/Vg/VsP/2011 on the subject M/s Gangotrhi Enterprises (Ltd) of the O/o AD, Mines & Geloogy (Vig), Visakhapatnam.

GOPAL KRISHNA DWIVEDI
PRINCIPAL SECRETARY TO GOVERNMENT